

REMARKS

Applicants request favorable reconsideration of this application in view of the foregoing amendments and the following remarks. Of claims 1-34 that were pending in the application, claims 6, 7, 9-12, 15-18, 20, and 23-25 remain withdrawn from consideration and claims 1, 13, 14, 19, 21, 22, 26-29, 33, and 34 were rejected. Applicants appreciate the allowance of claims 2-5, 8, and 30-32.

By way of this amendment, Applicants have amended each of independent claims 1, 14, 22, and 26 to recite that “one of the first and second members is *configured to slide* relative to the other member.” Claims 1-5, 8, 13, 14, 19, 21, 22, and 26-34 are respectfully submitted for further consideration.

1. Examiner Interview

Applicants greatly appreciate the courtesy afforded by the Examiner by way of the Examiner Interview on October 18, 2005. During the Interview, Applicants’ undersigned representative and the Examiner agreed that the amendments made herein to independent claims 1, 14, 22, and 22 would overcome the prior art rejection, which is later discussed in detail.

2. Rejection of Claims 1, 13, 14, 19, 21, 22, 26-29, 33, and 34

The Examiner rejected claims 1, 13, 14, 19, 21, 22, 26-29, 33, and 34 under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 6,010,478 (“Bellhouse-I”). For the following reasons, Applicants respectfully traverse this rejection.

Preliminarily, Applicants note that as the instant application was filed as a PCT on July 6, 1998 and as Bellhouse-I issued thereafter on January 4, 2000, Bellhouse-I does not qualify as prior art under 35 U.S.C. § 102(b). However, Applicants note that the sealed capsule 8 to which the Examiner cited was previously disclosed as a capsule 28 in WO94/24263 (“Bellhouse-II”) (*see* Figs. 1 and 8) and in its related U.S. Patent No. 5,630,796 (“Bellhouse-III”) (*see* Fig. 1). Bellhouse-II and Bellhouse-III were submitted in the Information Disclosure Statement (“IDS”) filed on July 26, 2003, which the Examiner acknowledged in the Office Action mailed April 22, 2004. Bellhouse-II was published on October 27, 1994 and Bellhouse-III issued on May 20, 1997. For ease of comparison, however, the rejection will be addressed, and respectfully traversed, with respect to Bellhouse-I.

As amended, independent claims 1, 14, 22, and 26 all recite a “capsule” or an “intermediate portion” that includes first and second members, one of which “is *configured to*

slide relative to the other.” As agreed during the Examiner Interview on October 18, 2005, this amendment overcomes the rejection of independent claims 1, 14, 22, and 26 under § 102(b) for alleged anticipation by Bellhouse-I. Accordingly, Bellhouse-I can not be used to reject claims 1, 14, 22, and 26, or any claim dependent thereon, under 35 U.S.C. § 102(b). Moreover, as claims 13 and 29 depend from claim 1, as claims 19, 21, and 33 depend from claim 14, as claim 34 depends from claim 22, and as claims 27 and 28 depend from claim 26, each of these dependent claims is also allowable over Bellhouse-I, without regard to the other patentable limitations recited therein. A withdrawal of the rejection of claims 1, 13, 14, 19, 21, 22, 26-29, 33, and 34 under § 102(b) is, therefore, both warranted and earnestly solicited.

3. Previously Withdrawn Claims

As withdrawn claims 10-12 depend from allowable claim 1, as withdrawn claim 9 depends from allowed claim 2, as withdrawn claims 6 and 7 depend from allowed claim 4, and as withdrawn claims 15-18, 20, and 23-25 depend from allowable claim 14, each of these dependent/withdrawn claims is also allowable. Accordingly, when issuing a Notice of Allowance, the Examiner is requested, under 37 C.F.R. § 1.141 and M.P.E.P. § 809.04, to reenter and allow claims 6, 7, 9-12, 15-18, 20, and 23-25.

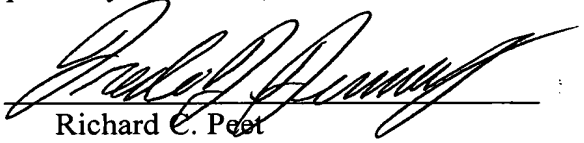
CONCLUSION

For the aforementioned reasons, claims 1-34 are now in condition for allowance. A Notice of Allowance at an early date is respectfully requested. The Examiner is invited to contact the undersigned if such communication would expedite the prosecution of the application.

Respectfully submitted,

Date November 23, 2005
Customer Number: 22428
FOLEY & LARDNER LLP
3000 K Street, N.W.
Suite 500
Washington, D.C. 20007-5143
Telephone: (202) 672-5300
Facsimile: (202) 672-5399

By


Richard C. Peet
Registration No. 35,792

Frederic T. Tenney
Registration No. 47,131

Attorneys for Applicants

THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY ADDITIONAL FEES WHICH MAY BE REQUIRED REGARDING THIS APPLICATION UNDER 37 C.F.R. §§ 1.16-1.17, OR CREDIT ANY OVERPAYMENT, TO DEPOSIT ACCOUNT NO. 19-0741. SHOULD NO PROPER PAYMENT BE ENCLOSED HERewith, AS BY A CHECK BEING IN THE WRONG AMOUNT, UNSIGNED, POST-DATED, OTHERWISE IMPROPER OR INFORMAL OR EVEN ENTIRELY MISSING, THE COMMISSIONER IS AUTHORIZED TO CHARGE THE UNPAID AMOUNT TO DEPOSIT ACCOUNT NO. 19-0741. IF ANY EXTENSIONS OF TIME ARE NEEDED FOR TIMELY ACCEPTANCE OF PAPERS SUBMITTED HERewith, APPLICANT HEREBY PETITIONS FOR SUCH EXTENSION UNDER 37 C.F.R. § 1.136 AND AUTHORIZES PAYMENT OF ANY SUCH EXTENSIONS FEES TO DEPOSIT ACCOUNT NO. 19-0741.